

S 278 IS

107th CONGRESS

1st Session

S. 278

To restore health care coverage to retired members of the uniformed services.

IN THE SENATE OF THE UNITED STATES

February 7, 2001

Mr. JOHNSON (for himself, Mr. BINGAMAN, and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To restore health care coverage to retired members of the uniformed services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Keep Our Promise to America's Military Retirees Act'.

SEC. 2. FINDINGS.

Congress makes the following findings:

- (1) No statutory health care program existed for members of the uniformed services who entered service prior to June 7, 1956, and retired after serving a minimum of 20 years or by reason of a service-connected disability.
- (2) Recruiters for the uniformed services are agents of the United States Government and employed recruiting tactics that allowed members who entered the uniformed services prior to June 7, 1956, to believe they would be entitled to fully-paid lifetime health care upon retirement.
- (3) Statutes enacted in 1956 entitled those who entered service on or after June 7,

1956, and retired after serving a minimum of 20 years or by reason of a service-connected disability, to medical and dental care in any facility of the uniformed services, subject to the availability of space and facilities and the capabilities of the medical and dental staff.

(4) After 4 rounds of base closures between 1988 and 1995 and further drawdowns of remaining military medical treatment facilities, access to 'space available' health care in a military medical treatment facility is virtually nonexistent for many military retirees.

(5) The military health care benefit of 'space available' services and medicare is no longer a fair and equitable benefit as compared to benefits for other retired Federal employees.

(6) The failure to provide adequate health care upon retirement is preventing the retired members of the uniformed services from recommending, without reservation, that young men and women make a career of any military service.

(7) Although provisions enacted in the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398) extended coverage under the TRICARE program to medicare eligible military retirees age 65 and older, those provisions did not address the health care needs of military retirees under the age of 65.

(8) The United States should establish health care that is fully paid by the sponsoring agency under the Federal Employees Health Benefits program for members who entered active duty on or prior to June 7, 1956, and who subsequently earned retirement.

(9) The United States should reestablish adequate health care for all retired members of the uniformed services that is at least equivalent to that provided to other retired Federal employees by extending to such retired members of the uniformed services the option of coverage under the Federal Employees Health Benefits program.

SEC. 3. COVERAGE OF MILITARY RETIREES UNDER THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) EARNED COVERAGE FOR CERTAIN RETIREES AND DEPENDENTS- Chapter 89 of title 5, United States Code, is amended--

(1) in section 8905, by adding at the end the following new subsection:

`(i) For purposes of this section, the term 'employee' includes a retired member of the

uniformed services (as defined in section 101(a)(5) of title 10) who began service before June 7, 1956. A surviving widow or widower of such a retired member may also enroll in an approved health benefits plan described by section 8903 or 8903a of this title as an individual.'; and

(2) in section 8906(b)--

(A) in paragraph (1), by striking 'paragraphs (2) and (3)' and inserting 'paragraphs (2) through (5)'; and

(B) by adding at the end the following new paragraph:

'(5) In the case of an employee described in section 8905(i) or the surviving widow or widower of such an employee, the Government contribution for health benefits shall be 100 percent, payable by the department from which the employee retired.'

(b) **COVERAGE FOR OTHER RETIREES AND DEPENDENTS-** (1) Section 1108 of title 10, United States Code, is amended to read as follows:

'Sec. 1108. Health care coverage through Federal Employees Health Benefits program

'(a) **FEHBP OPTION-** The Secretary of Defense, after consulting with the other administering Secretaries, shall enter into an agreement with the Office of Personnel Management to provide coverage to eligible beneficiaries described in subsection (b) under the health benefits plans offered through the Federal Employees Health Benefits program under chapter 89 of title 5.

'(b) **ELIGIBLE BENEFICIARIES; COVERAGE-** (1) An eligible beneficiary under this subsection is--

'(A) a member or former member of the uniformed services described in section 1074(b) of this title;

'(B) an individual who is an unremarried former spouse of a member or former member described in section 1072(2)(F) or 1072(2)(G) of this title;

'(C) an individual who is--

'(i) a dependent of a deceased member or former member described in section 1076(b) or 1076(a)(2)(B) of this title or of a member who died while on active duty for a period of more than 30 days; and

'(ii) a member of family as defined in section 8901(5) of title 5; or

`(D) an individual who is--

`(i) a dependent of a living member or former member described in section 1076(b)(1) of this title; and

`(ii) a member of family as defined in section 8901(5) of title 5.

`(2) Eligible beneficiaries may enroll in a Federal Employees Health Benefit plan under chapter 89 of title 5 under this section for self-only coverage or for self and family coverage which includes any dependent of the member or former member who is a family member for purposes of such chapter.

`(3) A person eligible for coverage under this subsection shall not be required to satisfy any eligibility criteria specified in chapter 89 of title 5 (except as provided in paragraph (1)(C) or (1)(D)) as a condition for enrollment in health benefits plans offered through the Federal Employees Health Benefits program under this section.

`(4) For purposes of determining whether an individual is a member of family under paragraph (5) of section 8901 of title 5 for purposes of paragraph (1)(C) or (1)(D), a member or former member described in section 1076(b) or 1076(a)(2)(B) of this title shall be deemed to be an employee under such section.

`(5) An eligible beneficiary who is eligible to enroll in the Federal Employees Health Benefits program as an employee under chapter 89 of title 5 is not eligible to enroll in a Federal Employees Health Benefits plan under this section.

`(6) An eligible beneficiary who enrolls in the Federal Employees Health Benefits program under this section shall not be eligible to receive health care under section 1086 or section 1097 of this title. Such a beneficiary may continue to receive health care in a military medical treatment facility, in which case the treatment facility shall be reimbursed by the Federal Employees Health Benefits program for health care services or drugs received by the beneficiary.

`(c) CHANGE OF HEALTH BENEFITS PLAN- An eligible beneficiary enrolled in a Federal Employees Health Benefits plan under this section may change health benefits plans and coverage in the same manner as any other Federal Employees Health Benefits program beneficiary may change such plans.

`(d) GOVERNMENT CONTRIBUTIONS- The amount of the Government contribution for an eligible beneficiary who enrolls in a health benefits plan under chapter 89 of title 5 in accordance with this section may not exceed the amount of the Government contribution which would be payable if the electing beneficiary were an employee (as defined for

purposes of such chapter) enrolled in the same health benefits plan and level of benefits.

`(e) SEPARATE RISK POOLS- The Director of the Office of Personnel Management shall require health benefits plans under chapter 89 of title 5 to maintain a separate risk pool for purposes of establishing premium rates for eligible beneficiaries who enroll in such a plan in accordance with this section.'

(2) The item relating to section 1108 at the beginning of such chapter is amended to read as follows:

`1108. Health care coverage through Federal Employees Health Benefits program.'

(3) The amendments made by this subsection shall take effect on January 1, 2002.

END